

**REBUTTAL TESTIMONY ON REHEARING OF MARK WELCH ON BEHALF OF
AMERITECH ILLINOIS**

Date _____

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Mark Welch. My title is General Manager, Network Regulatory. I am employed by SBC Management Services, Inc., and work at 308 Akard, Room 732, Dallas, Texas 75202.

Q. ARE YOU THE SAME MARK WELCH THAT PROVIDED DIRECT TESTIMONY ON REHEARING IN THIS CASE?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY ON REHEARING?

A. The purpose of my direct testimony on rehearing is to respond to the assertions of certain of the CLEC witnesses, specifically as they relate to the feasibility of and requirements for Ameritech Illinois to allow CLECs to collocate a DSLAM and access Ameritech subloops in order to provide xDSL services.

Q. WHAT IS YOUR RESPONSE TO THE CLECS' ASSERTION THAT IT IS NOT ECONOMICALLY FEASIBLE FOR THEM TO COLLOCATE AT REMOTE TERMINALS AND ACCESS COPPER SUBLOOPS TO PROVIDE DSL SERVICE?

A. The CLECs' assertion is inconsistent with the position they recently took when the FCC addressed these same issues during the Project Pronto Waiver Order proceeding. Specifically, on May 19th, 2000, Covad and Rhythms jointly filed an ex parte¹ (provided as Attachment 1) with the FCC in which they sought the imposition of specific conditions designed to enable them to collocate at RTs and gain access to the copper facilities between the RT and the end-user's premises. These ex parte submissions, which specifically identify the CLECs' desire to collocate their own

¹ CC Docket No. 98-141, "Response to SBC's Request for Interpretation, Waiver or Suspension of Merger Conditions Affecting Ownership of Plugs/Cards and OCDs" jointly filed by Rhythms NetConnections, Inc., Covad Communications Company, and NorthPoint Communications, Inc. (May 19th, 2000)

DSLAMs and multiplexing equipment in the remote terminal, led to certain of the Project Pronto commitments made by SBC, and ordered as conditions by the FCC in the *Project Pronto Waiver Order*, which are described in more detail below.

Q. DO YOU AGREE WITH THE CLECS' INTERPRETATION OF THE FCC REQUIREMENTS FOR UNBUNDLING PACKET SWITCHING FUNCTIONS?

A. No. Under the FCC's rules, one of the four criteria that must be met before an ILEC can be required to unbundle packet switching is the following:

"(iii) The incumbent LEC has not permitted a requesting carrier to deploy a Digital Subscriber Line Access Multiplexer in the remote terminal, pedestal or environmentally controlled vault or other interconnection point, nor has the requesting carrier obtained a virtual collocation arrangement at these subloop interconnection points as defined by § 51.319(b)..."

Although I am not an attorney, the plain reading of this criterion indicates that it is *not met unless an ILEC actually has refused a CLEC request to collocate a DSLAM at a particular RT. A CLECs' perception of economic attractiveness or feasibility of such collocation is irrelevant. Ameritech has not refused any request for collocation in or near any RT in Illinois.*

Therefore, the FCC's rule has not been met.

Q. DO YOU AGREE WITH THE CLECS THAT IT IS NOT TECHNICALLY FEASIBLE FOR CLECS TO COLLOCATE AT A REMOTE TERMINAL IN ORDER TO PROVISION DSL SERVICES?

A. Absolutely not. Ameritech Illinois has deployed numerous cabinets and also some controlled environmental vaults (CEVs) at remote terminal (RT) sites. However, the CLECs mischaracterize the facts when they state that Ameritech Illinois "has not permitted a requesting carrier to deploy a Digital Subscriber Line Access Multiplexer at the remote terminal". The truth of the matter is that Ameritech has never even received a CLEC request to collocate a DSLAM at a remote terminal in Illinois.

Q. DO YOU BELIEVE THAT SITUATIONS COULD ARISE WHERE AMERITECH ILLINOIS WOULD REFUSE TO PERMIT A CLEC TO COLLOCATE A DSLAM IN A

NEW PROJECT PRONTO REMOTE TERMINAL BECAUSE OF INSUFFICIENT SPACE, POWER OR OTHER ENVIRONMENTAL CONDITIONS?

- A. No. During the FCC Project Pronto Waiver Order proceedings, CLECs raised concerns about their ability to collocate in new Project Pronto remote terminals. In response to the CLECs' concerns, SBC made the following voluntary commitments, which the FCC adopted as conditions of its *Project Pronto Waiver Order*.

- (a) Huts and Controlled Environmental Vaults Installed After September 15, 2000: SBC commits to making 20% of the space available in all huts and CEVs for use by unaffiliated carriers. This commitment applies to all huts and CEVs, which comprise approximately 25% of its remote terminal sites, installed after September 15, 2000.
- (b) Cabinets Installed After September 15, 2000: SBC commits to establishing a process by which unaffiliated carriers can collocate in a cabinet pursuant to a special construction arrangement. Specifically, SBC will facilitate collocation by unaffiliated carriers by either: (1) making available approximately 15% of the total space; or (2) providing an adjacent collocation structure (on the incumbent LEC's premises) with all necessary connections to the network. SBC's commitment applies to all cabinets deployed after September 15, 2000. SBC will ensure that competitive LECs have access to power supply, environmental controls, fiber feeder facilities, the copper subloop, and other technical requirements.

Given these commitments, it simply is wrong to assert that Ameritech Illinois has "not permitted a requesting carrier to deploy a Digital Subscriber Line Access Multiplexer in the remote terminal, pedestal or environmentally controlled vault"², which is one of the FCC rules that applies.

Q. HOW WOULD AMERITECH ILLINOIS RESPOND IN A SITUATION WHERE THERE WAS INSUFFICIENT SPACE, POWER OR ENVIRONMENTAL CONDITIONS FOR A CLEC TO COLLOCATE WITHIN AN *EXISTING* REMOTE TERMINAL?

- A. That, too, was a concern that was raised by CLECs during the same FCC proceedings. In response, SBC made the following commitment:

- (c) Remote Terminals Installed Before September 15, 2000: To facilitate competitive access to remote terminals installed before September 15, 2000, SBC commits to establishing a process by which its incumbent LECs will make available additional space in remote terminals.

² FCC UNE Remand Order.

Specifically, unaffiliated carriers may request that SBC make available additional collocation space, power supply, and other requirements for collocating in the remote terminal. This commitment affords unaffiliated carriers the opportunity to choose a deployment schedule different from the one chosen by SBC.

Therefore, even those pre-existing remote terminals that have space, power, or other environmental issues will still be accessible by CLECs via a Special Construction Arrangement.

Q. GIVEN THAT AMERITECH ILLINOIS HAS NEVER REFUSED A CLEC REQUEST TO COLLOCATE AT A REMOTE TERMINAL IN ILLINOIS AND HAS AGREED TO COMPLY WITH THE FCC'S PROJECT PRONTO WAIVER CONDITIONS, DO YOU BELIEVE IT IS REASONABLE TO REQUIRE AMERITECH ILLINOIS TO UNBUNDLE ITS PACKET SWITCHING NETWORK?

A. No. The FCC's UNE Remand Order clearly requires that *all four conditions* outlined in Mr. Boyer's testimony be met. Furthermore, the FCC's UNE Remand Order requires that this standard be applied on an RT-by-RT basis, at each *individual location* where an RT has been deployed. Not only has this condition never been met at a single Ameritech Illinois RT location, it most certainly has not been met at every Ameritech Illinois RT location—as the Commission would have to find. The FCC considered the CLECs' concerns as a part of the Project Pronto Waiver Order proceedings and found that these specific voluntary commitments adequately address the concerns raised by CLECs.

Q. DO YOU AGREE WITH MR. BURT'S ANALYSIS OF THE THIRD CONDITION REGARDING COLLOCATION IN RTS AS BEING MET?

A. No. First, Mr. Burt incorrectly assumes that the placement of line cards within equipment is a form of collocation. As explained by Mr. Boyer, this does not meet the FCC's definition of collocation. Mr. Burt then references an isolated instance in Kansas where Sprint requested collocation in the RT, but fails to explain that the "space issue" was not one of space being unavailable, but rather was an issue of Sprint's equipment being too deep to fit within the racks deployed within the RT –

which is a safety issue, not a space availability issue. In any event, as Mr. Burt even admits, Sprint actually was able to place their own equipment at that location.

Q. DO YOU AGREE WITH THE CLECS THAT IT IS NOT TECHNICALLY FEASIBLE FOR CLECS TO OBTAIN ACCESS TO COPPER SUBLOOPS AT A REMOTE TERMINAL IN ORDER TO PROVISION DSL SERVICES?

A. No. As I outlined in my Direct Testimony on Rehearing, specifically in response to the question raised by Commission Squires, CLECs have the opportunity to gain access to copper subloops at or near the RT via the Engineering Controlled Splice (ECS). Indeed, the commitment set forth as a condition in the FCC's Project Pronto Waiver Order provides:

"(d) Access to Copper Subloop and Dark Fiber and Associated SCA...
The following general terms shall govern the SCA for access to the copper subloop and dark fiber: (1) the SBC/Ameritech incumbent LECs will either use existing copper or construct new copper facilities from the SAI(s) to the telecommunications carrier in or at an remote terminal and/or construct an engineering controlled splice (which shall be owned by the SBC/Ameritech incumbent LECs) at the remote terminal site; ... (5) the requesting telecommunications carrier shall be liable only for costs associated with cable pairs that it orders to be presented at an engineering controlled splice (regardless of whether the requesting carrier actually utilizes all such pairs), even if SBC/Ameritech places more pairs at the splice; ..."

Given this condition, it is unreasonable to believe that it is not technically feasible for CLECs to gain access to Ameritech Illinois' copper subloop facilities at the RT. I should also note that Ameritech Illinois continues to offer conditioning on its copper facilities, even subloops, to ensure that any interferors that would prevent them from being DSL-capable are removed.

Q. DO YOU AGREE WITH THE CLECS THAT THE ADDITION OF A "CROSS-CONNECT SYSTEM" AT THE REMOTE TERMINAL WOULD BE AN APPROPRIATE ALTERNATIVE TO THE ECS ARRANGEMENT?

A. No. As I discussed in my Direct Testimony on Rehearing, there are several factors that have driven Ameritech Illinois to hardwire the copper facilities to the remote terminal equipment, including:

- 1) a volume of additional costs that would arise from the increase in size needed for the remote terminal
- 2) avoidance of additional costs that would be associated with daily operational issues including the requirement that technicians would have yet another location to visit when provisioning service and isolating trouble, and
- 3) avoidance of the back office support system administration issues.

Given the additional costs and issues associated with the CLECS' proposed cross-connect "solution", it would be inappropriate for Ameritech Illinois to incur that additional expense for the more than 2000 remote terminal locations on a proactive basis. It seems far more reasonable for CLECs to request collocation space in new RTs where the CLEC is actually collocating, or for CLECs to take advantage of Ameritech Illinois' offer to increase the space on existing RTs using the Special Construction Arrangement. Even Mr. Gindlesberger acknowledges that the ECS is a technically viable alternative for CLECs, by stating that the ECS is where there would be "one easy point" of connection between ILEC and CLEC, if needed.³ (emphasis added)

Q. DO YOU AGREE WITH THE ACCURACY OF MR. GINDLESBERGER'S DIAGRAM REFERENCING THE ECS?

A. No. While Mr. Gindlesberger references that the ECS should be utilized as a connection point between the ILEC and CLEC facilities, there is nothing indicating where the CLEC's facilities are located on the diagram. It appears that Mr. Gindlesberger inappropriately attempts to utilize the ECS as a means for connecting portions of Ameritech Illinois' network with each other, rather than with the CLECs' facilities.

³ Gindlesberger at page 8.

Q. DO YOU AGREE WITH THE SUBLOOP UNES REQUESTED BY MR. BURT?

A. Not exactly. While I do agree that CLECs have the opportunity to access subloops at the RT, that is only possible when the CLEC requests that Ameritech Illinois deploy an ECS on their behalf. Given that clarification, it would be much more appropriate to reference the subloops available at the RT as the ECS-NID, ECS-SAI, and also ECS-MDF. Ameritech already offers an SAI-NID copper subloop.

Q. DO YOU AGREE WITH MR. BURT'S INTERPRETATION OF THE FCC'S LINE SHARING RECONSIDERATION ORDER?

A. No. Mr. Burt makes several incorrect interpretations of the FCC's Line Sharing Reconsideration Order. First, Mr. Burt mischaracterizes the FCC's statement in that Order to the effect that an ILECs' obligation to "provide line sharing applies to the entire loop, even where the incumbent LEC has deployed fiber in the loop, as is the case when the loop is served by a remote terminal," as somehow requiring Ameritech Illinois to unbundle its packet switching facilities. Mr. Burt is wrong. The FCC clarified the intent of its statement in a letter issued by the Chief of the Common Carrier Bureau on February 23, 2001:

"In this Order, we clarify that the Line Sharing Reconsideration Order in no way modified the criteria set forth in the Commission's UNE Remand Order regarding the unbundling of packet switching functionality. Specifically, we clarify that the Line Sharing Reconsideration Order does not alter Section 51.319(b)(5) of the Commission's rules, which describes the limited set of circumstances under which an incumbent LEC is required to provide nondiscriminatory access to unbundled packet switching capability."

This language clearly shows that Mr. Burt's suggestion that the FCC has ordered ILECs to unbundle their packet switching functionality or has defined that functionality as being part of the unbundled loop is wrong. Mr. Burt also suggests that the FCC has required ILECs to provide access to copper subloops at the RT. Again, this is not the case. Rather, the FCC requires that ILECs not prohibit CLECs from gaining access to subloops at *accessible terminals* in the ILEC's outside plant.

As I explained above, Ameritech does allow CLECs to gain access to subloops, even at the RT (via the ECS).

Q. IS MR. STARKEY'S ASSERTION THAT AMERITECH'S PARENT, SBC, JOINTLY FILED A PETITION WITH VERIZON AND BELL SOUTH TO HAVE DARK FIBER AND FIBER BASED UNE SUB-LOOPS REMOVED FROM THE NATIONAL LIST OF UNBUNDLED NETWORK ELEMENTS ACCURATE?

A. No. Mr. Starkey misunderstands the scope of the April 5, 2001 Joint Petition to the FCC. The purpose of the Joint Petition is to address whether, in the market for *HICAP special access services*, CLECs are impaired without access to UNEs. The purchase of HICAP special access services is predominantly by large businesses in concentrated geographical areas, and is distinct from services such as ADSL, which are designed for mass market applications (i.e. residential and small business customers). Regardless of Mr. Starkey's assertion, Ameritech Illinois currently provides access to sub-loops subtending at remote terminals via dark fiber and fiber based sub-loops where they are available. CLECs also can access remote terminals utilizing DS1 high-capacity loops provided over copper facilities, as well as other viable options described in Mr. Boyer's testimony.

Q. ARE THERE ANY ADDITIONAL ISSUES YOU WOULD LIKE TO ADDRESS?

A. Yes. In my Direct Testimony, I addressed Ameritech's proposed charge for Manual Loop Qualification and OSS Modification. However, there were no CLEC comments on either of these issues. Mr. Koch, on behalf of the Staff of the Illinois Commerce Commission, acknowledges that Ameritech Illinois' proposed flat-rate approach is superior to the original per-minute rate that it proposed. Although I do not agree with Mr. Koch's assessment that Ameritech Illinois should not be entitled to recover any of its costs for performing this work at the request of a CLEC, I do agree with Mr. Koch that Ameritech Illinois' proposed flat rate price is the appropriate price for Ameritech

Illinois, as it reflects the actual time required and costs incurred to perform the manual work.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY ON REHEARING?

A. Yes.